

1 AMENDMENT TO HOUSE BILL 2449

2 AMENDMENT NO. _____. Amend House Bill 2449 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Mental Health Drug Open Access Authorization Act.

6 Section 5. Legislative findings; purpose.

7 (a) The General Assembly finds as follows:

8 (1) Recipients of medical assistance under the
9 Illinois Public Aid Code are often the State's most
10 disadvantaged citizens, burdened with significant
11 medical, financial, and social needs. Those recipients
12 benefit from an integrated approach to health care with
13 open and continuous access to physician-prescribed
14 medications.

15 (2) Mental health patients, including, but not
16 limited to, patients with severe mental illnesses such as
17 schizophrenia, bipolar disorder (manic-depressive
18 illness), or depression, require individually tailored
19 treatments determined by an appropriately trained health
20 care provider.

21 (3) Medications for mental illness are not the
22 same; medications can vary greatly in effectiveness in

1 treating specific symptoms or disorders or in their side
2 effects. Patient needs vary greatly, and not all patients
3 respond in the same way to a given treatment.

4 (4) There is ample evidence that new medications
5 offer therapeutic advantages over older medications when
6 used within evidence-based clinical practice.

7 (5) The determination of the most appropriate
8 medication for a particular patient with a mental illness
9 should be made on the basis of patient acceptability,
10 prior individual drug response, individual side-effect
11 profile, and concomitant pharmacotherapies; and, finally,
12 where multiple agents are equally documented as
13 clinically effective, the final evaluation will be price.

14 (6) As a member of the direct caregiver team, a
15 patient's physician should determine the most appropriate
16 treatment that falls within the scope of evidence-based
17 clinical practice. As a member of the direct caregiver
18 team, a patient's pharmacist should apply the principles
19 of pharmaceutical care to ensure patient safety relative
20 to potential drug-drug, drug-food, and drug-preexisting
21 medical abnormality interactions.

22 (b) The purpose of this Act is to ensure that recipients
23 of medical assistance under the Illinois Public Aid Code, and
24 other similarly situated patients, who need treatment for
25 mental illness have open and continuous access to the
26 medications deemed appropriate by their physicians and
27 supported by evidence-based clinical practice.

28 Section 10. Definitions. In this Act:

29 "Cross-indication" means that a drug is used for a
30 purpose generally held to be reasonable, appropriate, and
31 within the scope of evidence-based clinical practice as set
32 forth in peer-reviewed literature (not case reports).

33 "Department" means the following:

1 (1) In the case of the Children's Health Insurance
2 Program under the Children's Health Insurance Program Act
3 or the medial assistance program under the Illinois
4 Public Aid Code: the Department of Public Aid.

5 (2) In the case of the program of pharmaceutical
6 assistance under the Senior Citizens and Disabled Persons
7 Property Tax Relief and Pharmaceutical Assistance Act:
8 the Department of Revenue.

9 (3) In the case of any other State prescription
10 drug assistance program: the State agency that
11 administers that program.

12 "Mental illness" has the meaning ascribed to that term in
13 the most recent edition of the Diagnostic and Statistical
14 Manual of Mental Disorders, published by the American
15 Psychiatric Association.

16 "Prior authorization" means a procedure by which the
17 prescriber or dispenser of a drug must verify with the
18 Department or its contractor that the proposed medical use of
19 that drug for a patient meets predetermined criteria for
20 coverage under a program described in Section 15.

21 Section 15. Affected programs. This Act applies to the
22 following programs:

23 (1) The Children's Health Insurance Program under
24 the Children's Health Insurance Program Act.

25 (2) The medial assistance program under Article V
26 of the Illinois Public Aid Code, as well as medical
27 assistance provided to recipients of General Assistance
28 under Article VI of that Code.

29 (3) The program of pharmaceutical assistance under
30 the Senior Citizens and Disabled Persons Property Tax
31 Relief and Pharmaceutical Assistance Act.

32 (4) Any other State prescription drug assistance
33 program.

1 Section 20. Prior authorization of mental health drugs
2 prohibited.

3 (a) The Department may not use or require the use of a
4 prior authorization procedure in connection with the
5 dispensing of a prescription drug, or reimbursement for the
6 dispensing of a drug, that meets either of the following
7 criteria:

8 (1) According to the most recent version of AHFS
9 Drug Information, published by the American Society of
10 Health-System Pharmacists, or the Physician's Desk
11 Reference, the drug is:

12 (A) classified as an anti-anxiety,
13 antidepressant, or antipsychotic central nervous
14 system drug; or

15 (B) cross-indicated for a central nervous
16 system drug classification.

17 (2) The drug is prescribed for the treatment of
18 mental illness.

19 (b) Nothing in this Section precludes prior
20 authorization requirements for dosages of prescribed
21 medications that exceed the maximum dosage established by the
22 federal Food and Drug Administration where clinical safety
23 and efficacy have been established.

24 (c) Notwithstanding subdivision (a)(1)(B) of this
25 Section, even though a cross-indicated use is not included in
26 the federal Food and Drug Administration's approved label
27 indications for the drug, dosages may not exceed the maximum
28 dosage established by the Food and Drug Administration where
29 clinical safety and efficacy have been established.

30 (d) In compliance with Health Care Finance
31 Administration guidelines, a functional Drug Use Review (DUR)
32 activity shall review clinical outcomes and, based on
33 evidence-based clinical practices, intervene where clinically
34 appropriate to ensure the health and safety of the patients

1 receiving health benefits coverage under the Children's
 2 Health Insurance Program Act, medical assistance under
 3 Article V or VI of the Illinois Public Aid Code,
 4 pharmaceutical assistance under the Senior Citizens and
 5 Disabled Persons Property Tax Relief and Pharmaceutical
 6 Assistance Act, or benefits under any other State
 7 prescription drug assistance program.

8 Section 90. The Children's Health Insurance Program Act
 9 is amended by adding Section 27 as follows:

10 (215 ILCS 106/27 new)

11 Sec. 27. Prior authorization of mental health drugs;
 12 other restrictions.

13 (a) Health benefits coverage provided to eligible
 14 children under this Act is subject to the Mental Health Drug
 15 Open Access Authorization Act, except where the dosage of a
 16 prescribed drug exceeds the maximum dosage established by the
 17 federal Food and Drug Administration where safety and
 18 clinical efficacy have been established.

19 (b) Nothing in this Section shall be construed to
 20 prohibit the Department from implementing restrictions, other
 21 than prior authorization requirements, as necessary for the
 22 purpose of ensuring the appropriate use of medications by
 23 program beneficiaries. Such restrictions include limitations
 24 on quantity, prescribing protocols and guidelines, and other
 25 restrictions that are supported by evidence-based medicine.

26 Section 93. The Illinois Public Aid Code is amended by
 27 changing Sections 5-5.12 and 6-11 as follows:

28 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

29 Sec. 5-5.12. Pharmacy payments.

30 (a) Every request submitted by a pharmacy for

1 reimbursement under this Article for prescription drugs
2 provided to a recipient of aid under this Article shall
3 include the name of the prescriber or an acceptable
4 identification number as established by the Department.

5 (b) Pharmacies providing prescription drugs under this
6 Article shall be reimbursed at a rate which shall include a
7 professional dispensing fee as determined by the Illinois
8 Department, plus the current acquisition cost of the
9 prescription drug dispensed. The Illinois Department shall
10 update its information on the acquisition costs of all
11 prescription drugs no less frequently than every 30 days.
12 However, the Illinois Department may set the rate of
13 reimbursement for the acquisition cost, by rule, at a
14 percentage of the current average wholesale acquisition cost.

15 (c) Reimbursement under this Article for prescription
16 drugs shall be limited to reimbursement for 4 brand-name
17 prescription drugs per patient per month. This subsection
18 applies only if (i) the brand-name drug was not prescribed
19 for an acute or urgent condition, (ii) the brand-name drug
20 was not prescribed for Alzheimer's disease, arthritis,
21 diabetes, HIV/AIDS, a mental health condition, or respiratory
22 disease, and (iii) a therapeutically equivalent generic
23 medication has been approved by the federal Food and Drug
24 Administration.

25 (d) The Department shall not impose requirements for
26 prior approval based on a preferred drug list for
27 anti-retroviral or any atypical antipsychotics, conventional
28 antipsychotics, or anticonvulsants used for the treatment of
29 serious mental illnesses until 30 days after it has conducted
30 a study of the impact of such requirements on patient care
31 and submitted a report to the Speaker of the House of
32 Representatives and the President of the Senate. In the case
33 of a conflict between this subsection and the Mental Health
34 Drug Open Access Authorization Act, the Mental Health Drug

1 Open Access Authorization Act controls, except where the
2 dosage of a prescribed drug exceeds the maximum dosage
3 established by the federal Food and Drug Administration where
4 safety and clinical efficacy have been established. Nothing
5 in the changes made by this amendatory Act of the 93rd
6 General Assembly shall be construed to prohibit the
7 Department from implementing restrictions, other than prior
8 authorization requirements, as necessary for the purpose of
9 ensuring the appropriate use of medications by recipients of
10 medical assistance under this Article. Such restrictions
11 include limitations on quantity, prescribing protocols and
12 guidelines, and other restrictions that are supported by
13 evidence-based medicine.

14 (Source: P.A. 92-597, eff. 6-28-02; 92-825, eff. 8-21-02;
15 revised 9-19-02.)

16 (305 ILCS 5/6-11) (from Ch. 23, par. 6-11)

17 Sec. 6-11. State funded General Assistance.

18 (a) Effective July 1, 1992, all State funded General
19 Assistance and related medical benefits shall be governed by
20 this Section. Other parts of this Code or other laws related
21 to General Assistance shall remain in effect to the extent
22 they do not conflict with the provisions of this Section. If
23 any other part of this Code or other laws of this State
24 conflict with the provisions of this Section, the provisions
25 of this Section shall control.

26 (b) State funded General Assistance shall consist of 2
27 separate programs. One program shall be for adults with no
28 children and shall be known as State Transitional Assistance.
29 The other program shall be for families with children and for
30 pregnant women and shall be known as State Family and
31 Children Assistance.

32 (c) (1) To be eligible for State Transitional Assistance
33 on or after July 1, 1992, an individual must be ineligible

1 for assistance under any other Article of this Code, must be
2 determined chronically needy, and must be one of the
3 following:

4 (A) age 18 or over or

5 (B) married and living with a spouse, regardless of
6 age.

7 (2) The Illinois Department or the local governmental
8 unit shall determine whether individuals are chronically
9 needy as follows:

10 (A) Individuals who have applied for Supplemental
11 Security Income (SSI) and are awaiting a decision on
12 eligibility for SSI who are determined disabled by the
13 Illinois Department using the SSI standard shall be
14 considered chronically needy, except that individuals
15 whose disability is based solely on substance addictions
16 (drug abuse and alcoholism) and whose disability would
17 cease were their addictions to end shall be eligible only
18 for medical assistance and shall not be eligible for cash
19 assistance under the State Transitional Assistance
20 program.

21 (B) If an individual has been denied SSI due to a
22 finding of "not disabled" (either at the Administrative
23 Law Judge level or above, or at a lower level if that
24 determination was not appealed), the Illinois Department
25 shall adopt that finding and the individual shall not be
26 eligible for State Transitional Assistance or any related
27 medical benefits. Such an individual may not be
28 determined disabled by the Illinois Department for a
29 period of 12 months, unless the individual shows that
30 there has been a substantial change in his or her medical
31 condition or that there has been a substantial change in
32 other factors, such as age or work experience, that might
33 change the determination of disability.

34 (C) The Illinois Department, by rule, may specify

1 other categories of individuals as chronically needy;
2 nothing in this Section, however, shall be deemed to
3 require the inclusion of any specific category other than
4 as specified in paragraphs (A) and (B).

5 (3) For individuals in State Transitional Assistance,
6 medical assistance shall be provided in an amount and nature
7 determined by the Illinois Department of Public Aid by rule.
8 The amount and nature of medical assistance provided need not
9 be the same as that provided under paragraph (4) of
10 subsection (d) of this Section, and nothing in this paragraph
11 (3) shall be construed to require the coverage of any
12 particular medical service. In addition, the amount and
13 nature of medical assistance provided may be different for
14 different categories of individuals determined chronically
15 needy.

16 (4) The Illinois Department shall determine, by rule,
17 those assistance recipients under Article VI who shall be
18 subject to employment, training, or education programs
19 including Earnfare, the content of those programs, and the
20 penalties for failure to cooperate in those programs.

21 (5) The Illinois Department shall, by rule, establish
22 further eligibility requirements, including but not limited
23 to residence, need, and the level of payments.

24 (d) (1) To be eligible for State Family and Children
25 Assistance, a family unit must be ineligible for assistance
26 under any other Article of this Code and must contain a child
27 who is:

28 (A) under age 18 or

29 (B) age 18 and a full-time student in a secondary
30 school or the equivalent level of vocational or technical
31 training, and who may reasonably be expected to complete
32 the program before reaching age 19.

33 Those children shall be eligible for State Family and
34 Children Assistance.

1 (2) The natural or adoptive parents of the child living
2 in the same household may be eligible for State Family and
3 Children Assistance.

4 (3) A pregnant woman whose pregnancy has been verified
5 shall be eligible for income maintenance assistance under the
6 State Family and Children Assistance program.

7 (4) The amount and nature of medical assistance provided
8 under the State Family and Children Assistance program shall
9 be determined by the Illinois Department of Public Aid by
10 rule. The amount and nature of medical assistance provided
11 need not be the same as that provided under paragraph (3) of
12 subsection (c) of this Section, and nothing in this paragraph
13 (4) shall be construed to require the coverage of any
14 particular medical service.

15 (5) The Illinois Department shall, by rule, establish
16 further eligibility requirements, including but not limited
17 to residence, need, and the level of payments.

18 (d-5) Medical assistance benefits provided to eligible
19 recipients under this Section are subject to the Mental
20 Health Drug Open Access Authorization Act. Nothing in this
21 subsection shall be construed to prohibit the Department of
22 Public Aid from implementing restrictions, other than prior
23 authorization requirements, as necessary for the purpose of
24 ensuring the appropriate use of medications by recipients of
25 medical assistance under this Section. Such restrictions
26 include limitations on quantity, prescribing protocols and
27 guidelines, and other restrictions that are supported by
28 evidence-based medicine.

29 (e) A local governmental unit that chooses to
30 participate in a General Assistance program under this
31 Section shall provide funding in accordance with Section
32 12-21.13 of this Act. Local governmental funds used to
33 qualify for State funding may only be expended for clients
34 eligible for assistance under this Section 6-11 and related

1 administrative expenses.

2 (f) In order to qualify for State funding under this
3 Section, a local governmental unit shall be subject to the
4 supervision and the rules and regulations of the Illinois
5 Department.

6 (g) Notwithstanding any other provision in this Code,
7 the Illinois Department is authorized to reduce payment
8 levels used to determine cash grants provided to recipients
9 of State Transitional Assistance at any time within a Fiscal
10 Year in order to ensure that cash benefits for State
11 Transitional Assistance do not exceed the amounts
12 appropriated for those cash benefits. Changes in payment
13 levels may be accomplished by emergency rule under Section
14 5-45 of the Illinois Administrative Procedure Act, except
15 that the limitation on the number of emergency rules that may
16 be adopted in a 24-month period shall not apply and the
17 provisions of Sections 5-115 and 5-125 of the Illinois
18 Administrative Procedure Act shall not apply. This provision
19 shall also be applicable to any reduction in payment levels
20 made upon implementation of this amendatory Act of 1995.

21 (Source: P.A. 92-111, eff. 1-1-02.)

22 Section 95. The Senior Citizens and Disabled Persons
23 Property Tax Relief and Pharmaceutical Assistance Act is
24 amended by changing Section 4 as follows:

25 (320 ILCS 25/4) (from Ch. 67 1/2, par. 404)

26 Sec. 4. Amount of Grant.

27 (a) In general. Any individual 65 years or older or any
28 individual who will become 65 years old during the calendar
29 year in which a claim is filed, and any surviving spouse of
30 such a claimant, who at the time of death received or was
31 entitled to receive a grant pursuant to this Section, which
32 surviving spouse will become 65 years of age within the 24

1 months immediately following the death of such claimant and
2 which surviving spouse but for his or her age is otherwise
3 qualified to receive a grant pursuant to this Section, and
4 any disabled person whose annual household income is less
5 than \$14,000 for grant years before the 1998 grant year, less
6 than \$16,000 for the 1998 and 1999 grant years, and less than
7 (i) \$21,218 for a household containing one person, (ii)
8 \$28,480 for a household containing 2 persons, or (iii)
9 \$35,740 for a household containing 3 or more persons for the
10 2000 grant year and thereafter and whose household is liable
11 for payment of property taxes accrued or has paid rent
12 constituting property taxes accrued and is domiciled in this
13 State at the time he or she files his or her claim is
14 entitled to claim a grant under this Act. With respect to
15 claims filed by individuals who will become 65 years old
16 during the calendar year in which a claim is filed, the
17 amount of any grant to which that household is entitled shall
18 be an amount equal to 1/12 of the amount to which the
19 claimant would otherwise be entitled as provided in this
20 Section, multiplied by the number of months in which the
21 claimant was 65 in the calendar year in which the claim is
22 filed.

23 (b) Limitation. Except as otherwise provided in
24 subsections (a) and (f) of this Section, the maximum amount
25 of grant which a claimant is entitled to claim is the amount
26 by which the property taxes accrued which were paid or
27 payable during the last preceding tax year or rent
28 constituting property taxes accrued upon the claimant's
29 residence for the last preceding taxable year exceeds 3 1/2%
30 of the claimant's household income for that year but in no
31 event is the grant to exceed (i) \$700 less 4.5% of household
32 income for that year for those with a household income of
33 \$14,000 or less or (ii) \$70 if household income for that year
34 is more than \$14,000.

1 (c) Public aid recipients. If household income in one
2 or more months during a year includes cash assistance in
3 excess of \$55 per month from the Department of Public Aid or
4 the Department of Human Services (acting as successor to the
5 Department of Public Aid under the Department of Human
6 Services Act) which was determined under regulations of that
7 Department on a measure of need that included an allowance
8 for actual rent or property taxes paid by the recipient of
9 that assistance, the amount of grant to which that household
10 is entitled, except as otherwise provided in subsection (a),
11 shall be the product of (1) the maximum amount computed as
12 specified in subsection (b) of this Section and (2) the ratio
13 of the number of months in which household income did not
14 include such cash assistance over \$55 to the number twelve.
15 If household income did not include such cash assistance over
16 \$55 for any months during the year, the amount of the grant
17 to which the household is entitled shall be the maximum
18 amount computed as specified in subsection (b) of this
19 Section. For purposes of this paragraph (c), "cash
20 assistance" does not include any amount received under the
21 federal Supplemental Security Income (SSI) program.

22 (d) Joint ownership. If title to the residence is held
23 jointly by the claimant with a person who is not a member of
24 his or her household, the amount of property taxes accrued
25 used in computing the amount of grant to which he or she is
26 entitled shall be the same percentage of property taxes
27 accrued as is the percentage of ownership held by the
28 claimant in the residence.

29 (e) More than one residence. If a claimant has occupied
30 more than one residence in the taxable year, he or she may
31 claim only one residence for any part of a month. In the
32 case of property taxes accrued, he or she shall prorate 1/12
33 of the total property taxes accrued on his or her residence
34 to each month that he or she owned and occupied that

1 residence; and, in the case of rent constituting property
2 taxes accrued, shall prorate each month's rent payments to
3 the residence actually occupied during that month.

4 (f) There is hereby established a program of
5 pharmaceutical assistance to the aged and disabled which
6 shall be administered by the Department in accordance with
7 this Act, to consist of payments to authorized pharmacies, on
8 behalf of beneficiaries of the program, for the reasonable
9 costs of covered prescription drugs. Each beneficiary who
10 pays \$5 for an identification card shall pay no additional
11 prescription costs. Each beneficiary who pays \$25 for an
12 identification card shall pay \$3 per prescription. In
13 addition, after a beneficiary receives \$2,000 in benefits
14 during a State fiscal year, that beneficiary shall also be
15 charged 20% of the cost of each prescription for which
16 payments are made by the program during the remainder of the
17 fiscal year. To become a beneficiary under this program a
18 person must: (1) be (i) 65 years of age or older, or (ii) the
19 surviving spouse of such a claimant, who at the time of death
20 received or was entitled to receive benefits pursuant to this
21 subsection, which surviving spouse will become 65 years of
22 age within the 24 months immediately following the death of
23 such claimant and which surviving spouse but for his or her
24 age is otherwise qualified to receive benefits pursuant to
25 this subsection, or (iii) disabled, and (2) be domiciled in
26 this State at the time he or she files his or her claim, and
27 (3) have a maximum household income of less than \$14,000 for
28 grant years before the 1998 grant year, less than \$16,000 for
29 the 1998 and 1999 grant years, and less than (i) \$21,218 for
30 a household containing one person, (ii) \$28,480 for a
31 household containing 2 persons, or (iii) \$35,740 for a
32 household containing 3 more persons for the 2000 grant year
33 and thereafter. In addition, each eligible person must (1)
34 obtain an identification card from the Department, (2) at the

1 time the card is obtained, sign a statement assigning to the
2 State of Illinois benefits which may be otherwise claimed
3 under any private insurance plans, and (3) present the
4 identification card to the dispensing pharmacist.

5 Whenever a generic equivalent for a covered prescription
6 drug is available, the Department shall reimburse only for
7 the reasonable costs of the generic equivalent, less the
8 co-pay established in this Section, unless (i) the covered
9 prescription drug contains one or more ingredients defined as
10 a narrow therapeutic index drug at 21 CFR 320.33, (ii) the
11 prescriber indicates on the face of the prescription "brand
12 medically necessary", and (iii) the prescriber specifies that
13 a substitution is not permitted. When issuing an oral
14 prescription for covered prescription medication described in
15 item (i) of this paragraph, the prescriber shall stipulate
16 "brand medically necessary" and that a substitution is not
17 permitted. If the covered prescription drug and its
18 authorizing prescription do not meet the criteria listed
19 above, the beneficiary may purchase the non-generic
20 equivalent of the covered prescription drug by paying the
21 difference between the generic cost and the non-generic cost
22 plus the beneficiary co-pay.

23 Pharmaceutical assistance benefits provided to eligible
24 persons under this Act are subject to the Mental Health Drug
25 Open Access Authorization Act. Nothing in the changes made
26 by this amendatory Act of the 93rd General Assembly shall be
27 construed to prohibit the Department of Revenue from
28 implementing restrictions, other than prior authorization
29 requirements, as necessary for the purpose of ensuring the
30 appropriate use of medications by recipients of
31 pharmaceutical assistance under this Act. Such restrictions
32 include limitations on quantity, prescribing protocols and
33 guidelines, and other restrictions that are supported by
34 evidence-based medicine.

1 Any person otherwise eligible for pharmaceutical
2 assistance under this Act whose covered drugs are covered by
3 any public program for assistance in purchasing any covered
4 prescription drugs shall be ineligible for assistance under
5 this Act to the extent such costs are covered by such other
6 plan.

7 The fee to be charged by the Department for the
8 identification card shall be equal to \$5 per coverage year
9 for persons below the official poverty line as defined by the
10 United States Department of Health and Human Services and \$25
11 per coverage year for all other persons.

12 In the event that 2 or more persons are eligible for any
13 benefit under this Act, and are members of the same
14 household, (1) each such person shall be entitled to
15 participate in the pharmaceutical assistance program,
16 provided that he or she meets all other requirements imposed
17 by this subsection and (2) each participating household
18 member contributes the fee required for that person by the
19 preceding paragraph for the purpose of obtaining an
20 identification card.

21 (Source: P.A. 91-357, eff. 7-29-99; 91-699, eff. 1-1-01;
22 92-131, eff. 7-23-01; 92-519, eff. 1-1-02; 92-651, eff.
23 7-11-02.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."